

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant : Fumitake Yodo

Serial No.: 09/923,702

Filed : August 7, 2001 Appeal No.

For : TERMINAL DEVICE, ACCOUNTING SYSTEM
AND DATA PROCESSING METHOD

Group : 3627

Examiner : Andrew J. Fischer

I hereby certify that this paper is being deposited with the U.S. Postal Service as first class mail addressed to : Mail Stop Appeal Brief, Commissioner for Patents, P.O. 1450, Alexandria, VA 22313-1450

JAY H. MAIOLI
Reg. No. 27,213

Jay H. Maioli
Date
February 22, 2005

February 22, 2005
1185 Avenue of the Americas
New York, NY 10036
(212) 278-0400

TRANSMITTAL LETTER FOR APPELLANT'S BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted in triplicate is Appellant's Appeal Brief in the above-identified application.

The fee of \$400 set by 37 C.F.R. § 1.17(F) for filing


60188-Z

the Brief is submitted herewith.

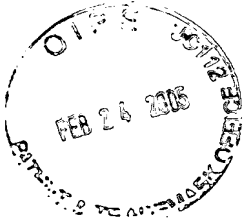
Please charge any additional fees incurred by reason of the Brief or credit any overpayment to Deposit Account No. 03-3125. A duplicate of this Transmittal Letter is enclosed.

Respectfully submitted,

COOPER & DUNHAM LLP


Jay H. Maioli
Reg. No. 27,213

JHM/PCF:pmc
enc.



6715/60188-Z

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Applicant : Fumitake Yodo
Serial No.: 09/923,702
Filed : August 7, 2001 Appeal No.
For : TERMINAL DEVICE, ACCOUNTING SYSTEM AND DATA
PROCESSING METHOD
Group : 3627
Examiner : Andrew J. Fischer

I hereby certify that this paper is being deposited with the U.S. Postal Service as first class mail addressed to : Mail Stop Appeal Brief, Commissioner for Patents, P.O. 1450, Alexandria, VA 22313-1450
Jay H. Maioli

JAY H. MAIOLI Date
Reg. No. 27,213 February 22, 2005

February 22, 2005
1185 Avenue of the Americas
New York, NY 10036
(212) 278-0400

APPELLANT'S BRIEF

Mail Stop Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an Appeal to the Board of Patent Appeals and Interferences from the Decision dated October 12, 2004, of the Examiner finally rejecting the sole claim pending in this application.

1. REAL PARTY IN INTEREST

This application is assigned to Sony Corporation, 7-35 Kitashinagawa 6-chome, Shinagawa-ku, Tokyo, Japan by the Assignment recorded July 17, 2000 at Reel 010981, Frame 0857.

2. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences presently known to the undersigned.

3. STATUS OF ALL CLAIMS

This application, which is a division of application serial No. 09/600,509 filed July 17, 2000, was originally filed with 12 claims and a Preliminary Amendment canceling claims 1-7 and 10-12. Claims 8 and 9 were amended by the Amendment mailed July 18, 2002, and by the Amendment mailed December 19, 2002. Claim 8 was cancelled and claim 9 was amended by the Amendment mailed July 31, 2003. Claim 9 was amended by the Amendment mailed December 15, 2003, and by the Amendment mailed June 25, 2004. A Response, without any claim amendments, was mailed November 22, 2004 and an Advisory Action maintaining the final rejection of October 12, 2004 was mailed December 6, 2004. Claim 9, the sole claim pending in this application, stands finally rejected and is the basis of this Appeal.

4. STATUS OF AMENDMENTS FILED SUBSEQUENT TO FINAL REJECTION

In response to the final rejection mailed October 12, 2004, a Response, without any claim amendments, was mailed November 22, 2004 and an Advisory Action maintaining the final rejection of October 12, 2004 was mailed December 6, 2004. Claim 9, the sole claim pending in this application, stands finally rejected and is set forth in Exhibit A attached hereto.

5. SUMMARY OF THE INVENTION

The presently claimed invention relates to an accounting system (Fig. 1) including an accounting center (1 in Fig. 1) and a terminal device (10 in Fig. 1) communicating with the accounting center (as shown in Fig. 1).

The terminal device includes:

a first memory (45 in Fig. 3) configured to store accounting points, the first memory being built in the terminal device (10 in Fig. 1);

a second memory (15 in Fig. 3) configured to store distributed information from an external source (1 in Fig. 1);

a first controller (11 in Fig. 3) configured to update the accounting points (S66 in Fig. 13) stored in the first memory (45 in Fig. 3) and to update attributes (a permission flag) of the distributed information when the distributed information is stored in the second memory (15 in Fig. 3 and S67 in Fig. 13);

a second controller (19 and 11 in Fig. 3) configured to transmit a request for purchasing the accounting points to the accounting center (S73 in Fig. 13) and to update the accounting points (S76 in Fig. 13) stored in the first memory (45 in Fig. 3) based on an accounting processing (S74 in Fig. 13) corresponding to the accounting points executed at the accounting center (1 in Fig. 1); and

a detector (MT in Fig. 1) configured to detect whether a portable device with a storage medium (50 in Fig. 1) is connected to the terminal device (S81 in Fig. 14), wherein

when the distributed information is stored in the second memory (15 in Fig. 3 and S63 in Fig. 13), the first controller (11 in Fig. 3) updates the attributes of the distributed information to an unavailable state (S64 in Fig. 13) and updates the accounting points stored in the first memory (45 in Fig. 3) based on the distributed information, and when the accounting points are not updated correctly, the second controller (19 and 11 in Fig. 3) transmits the request for purchasing the accounting points (S73 in Fig. 13) to the accounting center (1 in Fig. 1) and updates the accounting points (S76 in Fig. 13), and the first controller (11 in Fig. 3) updates the attributes of the distributed information from the unavailable state to an available state (S67 in Fig. 13), and

when the detector (MT in Fig. 1) detects that the portable device (50 in Fig. 1) is connected to the terminal device (10 in

Fig. 1 and S81 in Fig. 14), the first controller (11 in Fig. 3) of the terminal device (10 in Fig. 1) updates attributes of information stored in the storage medium (S82-83 in Fig. 14) of the portable device (50 in Fig. 1) from an unavailable state to an available state (S86 in Fig. 14) after the accounting points are updated correctly (S84-85 in Fig. 14), and

the accounting center (1 in Fig. 1) comprising:

a third controller (1 in Fig. 1) configured to carry out another accounting processing based on the request for purchasing the accounting points (S96 in Fig. 15) transmitted from the terminal device (10 in Fig. 1) by the second controller (19 and 11 in Fig. 3).

6. ISSUES

Whether claim 9 is patentable under 35 U.S.C. §103(a) over Peterson '020 (U.S. Patent No. 5,857,020).

7. GROUPING OF CLAIMS

Claim 9, being the sole claim under Appeal, stands or falls by itself.

8. ARGUMENT

As described above in the "SUMMARY OF INVENTION" section of this Brief, features of the accounting system including an accounting center and a terminal device communicating with the

accounting center are a terminal device having first and second memories and controllers, the terminal device including a detector configured to detect whether a portable device with a storage medium is connected to the terminal device, wherein when the detector detects that the portable device is connected to the terminal device, the first controller of the terminal device updates attributes of information stored in the storage medium of the portable device from an unavailable state to an available state after the accounting points, stored in the first memory of the terminal device, are updated correctly.

A functional advantage of the above-noted features of the present invention, enabled because of the claimed structure, is that a downloaded file is made available in the portable device by carrying out a point processing in the terminal device without having to transfer the downloaded file to the second memory of the terminal device.

It is respectfully submitted that Peterson '020 fails to show or suggest a detachable portable device having a storage medium, and a terminal device including a detector for detecting whether the portable device is connected to the terminal device, wherein when a connection is detected, distributed information is made available after carrying out a point processing in the terminal device. In Peterson '020 there is no portable device detachable from the terminal device, therefore the first controller of the terminal device cannot be used to update the

attributes of the information stored in the portable device.

Regarding the assertions set forth in the appealed decision at page 3 stating that the limitations beginning with "when the detector ..." are merely functional language having no patentable weight, it is respectfully submitted that the C.C.P.A. has pointed out that there is nothing intrinsically wrong in defining something by what it does rather than what it is and, that functional language in the claims must be given full weight and may not be disregarded in evaluating the patentability of the subject matter defined employing such functional language. See, In re Hallman, 210 U.S.P.Q. 609, 611 (C.C.P.A. 1981).

It is respectfully submitted that, because of the above-noted claim limitations, the presently recited invention distinguishes over Peterson '020 in terms of structure and function.

Accordingly, it is respectfully submitted that claim 9 is patentably distinct over Peterson '020.

A reversal of the final rejection of claim 9 by this Honorable Board is respectfully requested.

Respectfully submitted,

COOPER & DUNHAM LLP



Jay H. Maioli
Reg. No. 27,213

JHM/PCF:pmc

Exhibit A

Claim 9. (Finally Rejected). An accounting system including an accounting center and a terminal device communicating with the accounting center,

the terminal device comprising:

a first memory configured to store accounting points, the first memory being built-in in the terminal device;

a second memory configured to store distributed information distributed from an external source;

a first controller configured to update the accounting points stored in the first memory and to update attributes of the distributed information when the distributed information is stored in the second memory;

a second controller configured to transmit a request for purchasing the accounting points to the accounting center and to update the accounting points stored in the first memory based on an accounting processing corresponding to the accounting points executed at the accounting center; and

a detector configured to detect whether a portable device with a storage medium is connected to the terminal device, wherein

when the distributed information is stored in the second memory, the first controller updates the attributes of the distributed information to an unavailable state and updates the accounting points stored in the first memory based on the

distributed information, and when the accounting points are not updated correctly, the second controller transmits the request for purchasing the accounting points to the accounting center and updates the accounting points, and the first controller updates the attributes of the distributed information from the unavailable state to an available state, and

when the detector detects that the portable device is connected to the terminal device, the first controller updates attributes of information stored in the storage medium of the portable device from an unavailable state to an available state after the accounting points are updated correctly, and

the accounting center comprising:

a third controller configured to carry out an other accounting processing based on the request for purchasing the accounting points transmitted from the terminal device by the second controller.